

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN THE MATTER OF

KENNETH B CAVANAUGH,

DEBTOR

IN PROCEEDINGS

UNDER CHAPTER 13

CASE NO. 19-29649

JUDGE: Baer

NOTICE OF MOTION

Notified via Electronic Filing

U.S. Trustee, 219 S Dearborn St, Room 873, Chicago, IL 60604

Glenn B. Stearns, 801 Warrenville Road, Suite 650, Lisle, IL 60532

David M. Siegel, David M. Siegel & Associates, 790 Chaddick Drive, Wheeling, IL 60090

Notified via US Postal Service

Kenneth B Cavanaugh, 390 N. Kingsway Drive, Aurora, IL 60506

Juanita Cavanaugh, 390 N. Kingsway Drive, Aurora, IL 60506

Please take notice that on the 1st day of May, 2020, at the hour of 9:30 a.m. or as soon thereafter as I may be heard, I shall appear telephonically before the Honorable Judge Janet S Baer, at the United States Bankruptcy Court, Kane County Courthouse, 100 S. 3rd Street, Geneva, IL 60134 or before any other Bankruptcy Judge who may be presiding in his/her place and stead and shall then and there present the accompanying motion. A party who objects to this motion and wants it called must file a Notice of Objection no later than two (2) business days before the presentment date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. At that time and place you may attend telephonically if you so choose. If no Notice of Objection is timely filed, the court may grant the motion without a hearing before the date of presentment.

AFFIDAVIT OF SERVICE

The undersigned hereby certifies that he/she caused a true and correct copy of the above and foregoing document to be sent to the Debtor at the address listed below. Said copy was placed in an envelope addressed as listed below and placed in the U.S. Mail on April 16, 2020, with first class postage prepaid. All other parties entitled to notice received such notice electronically, through the office of the Clerk of the Court.

Respectfully Submitted,

/s/ Michael N. Burke

Mike Kalkowski ARDC #6185654
Richard B. Aronow ARDC# 03123969
Michael N. Burke ARDC#6291435
Shapiro Kreisman & Associates, LLC
2121 Waukegan Road, Suite 301
Bannockburn, IL 60015
(847) 291-1717
Attorneys for Movant
19-090732

The firm of Shapiro Kreisman & Associates, LLC is a debt collector. This is an attempt to collect a debt. Any information may be used for that purpose. If your personal liability for this debt has been extinguished, discharged in bankruptcy or if a court order prohibits collecting this debt from you personally, then this is an attempt to enforce the Movant's rights with respect to the property addressed herein, and it is not an attempt to collect the debt from you personally.

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**MOTION FOR RELIEF FROM THE AUTOMATIC STAY OR IN THE ALTERNATIVE
DISMISSAL OF THE CASE**

NOW COMES the Movant, Wells Fargo Bank, N.A., by and through its attorneys, Shapiro Kreisman & Associates, LLC, and states as follows:

1. On October 18, 2019, the above-named Debtor filed a Petition pursuant to 11 USC § 1301, et. seq. and a Plan which was confirmed on January 17, 2020.
2. A material term of said plan called for the Debtor to make post-petition monthly mortgage payments directly to the Movant commencing with the installment that came due on November 1, 2019.
3. Notwithstanding said material term, as of April 10, 2020, said post-petition mortgage payments are in default in the amount of \$5,681.71:

1/1/2020 - 4/1/2020 monthly payments	= \$	5,910.80
at \$1,477.70 each		
Suspense balance	= \$	(229.09)
 TOTAL	 = \$	 5,681.71

4. By failing to make current mortgage payments, the Debtor has failed to provide the Movant with adequate protection for its security, contrary to the requirements of the Bankruptcy Code.

5. Debtor(s) executed a promissory note secured by a mortgage or deed of trust. The promissory note is either payable to Movant or has been duly endorsed. Movant, directly or through an agent, has possession of the promissory note. Movant is the original mortgagee or beneficiary or the assignee of the mortgage or deed of trust.

6. That the Movant adopts the facts set forth in the Statement of Default as additional allegations in support of this motion.

7. This failure constitutes a material default entitling Movant to relief pursuant to 11 U.S.C. §362(d).

8. For the reasons set forth above, it would be inequitable to delay the enforcement of any order modifying the automatic stay with respect to the Movant.

WHEREFORE, Wells Fargo Bank, N.A., moves this Honorable Court to modify the automatic stay to allow Wells Fargo Bank, N.A. to pursue its rights under applicable state law with respect to the mortgage on the property located at: 390 North Kingsway Drive, Aurora, IL 60506 or to take action, with respect to this real property, as set forth under applicable non-bankruptcy law such as modification, short sale, and other loss mitigation options; that the unpaid portion of any proof of claim or stipulation calling for payment of the debt secured by that mortgage be withdrawn for purposes of these proceedings only and that Federal Bankruptcy Rule 4001(a)(3) be waived or dismiss the case.

Respectfully submitted,

/s/ Michael N. Burke
Attorney for Wells Fargo Bank, N.A.

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